

POWAY UNIFIED SCHOOL DISTRICT

Audit Report

EMERGENCY PROCEDURES, EARTHQUAKE PROCEDURES, AND DISASTERS PROGRAM

Chapter 1659, Statutes of 1984

July 1, 2000, through June 30, 2003



STEVE WESTLY
California State Controller

August 2005



STEVE WESTLY
California State Controller

August 31, 2005

Donald A. Phillips, Ed.D., Superintendent
Poway Unified School District
13626 Twin Peaks Road
Poway, CA 92064-3034

Dear Dr. Phillips:

The State Controller's Office audited the costs claimed by the Poway Unified School District for the legislatively mandated Emergency Procedures, Earthquake Procedures, and Disasters Program (Chapter 1659, Statutes of 1984) for the period of July 1, 2000, through June 30, 2003.

The district claimed \$753,508 for the mandated program. Our audit disclosed that \$15,144 is allowable and \$738,364 is unallowable. The unallowable costs occurred because the district claimed unsupported salary and benefit costs, and related indirect costs. The State paid the district \$309,016. The district should return \$293,872 to the State.

If you disagree with the audit finding, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (COSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at COSM's Web site, at www.csm.ca.gov (Guidebook link); you may obtain IRC forms by telephone, at (916) 323-3562, or by e-mail, at csminfo@csm.ca.gov.

If you have any questions, please contact Jim L. Spano, Chief, Compliance Audits Bureau, at (916) 323-5849.

Sincerely,

Original Signed By:

VINCENT P. BROWN
Chief Operating Officer

VPB:JVB/ams

cc: John Collins

Deputy Superintendent
Poway Unified School District

Randie A. Murrell
Chief Financial Officer
Poway Unified School District

Malliga Tholandi
Director of Accounting
Poway Unified School District

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the Poway Unified School District for the legislatively mandated Emergency Procedures, Earthquake Procedures, and Disasters Program (Chapter 1659, Statutes of 1984) for the period of July 1, 2000, through June 30, 2003. The last day of fieldwork was May 3, 2005.

The district claimed \$753,508 for the mandated program. Our audit disclosed that \$15,144 is allowable and \$738,364 is unallowable. The unallowable costs occurred because the district claimed unsupported salary and benefit costs, and related indirect costs. The State paid the district \$309,016. The district should return \$293,872 to the State.

Background

Chapter 1659, Statutes of 1984, added and amended *Education Code* Sections 35295, 35296, 35297, 40041.5, and 40042. The law requires each school district and county superintendent of schools to establish an earthquake emergency procedure in each school building under its jurisdiction. In addition, the law requires school districts to grant the use of school buildings, grounds, and equipment to public agencies for mass care and welfare shelters during disasters or other emergencies affecting public health and welfare. This law further eliminated school districts' authority to recover direct costs from public agencies for the use of school facilities during local emergencies.

On July 23, 1987, the Commission on State Mandates (COSM) determined that Chapter 1659, Statutes of 1984, imposed a state mandate reimbursable under *Government Code* Section 17561.

Parameters and Guidelines establishes the state mandate and defines reimbursement criteria. COSM adopted *Parameters and Guidelines* on March 23, 1989 (last amended on May 29, 2003). In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for mandated programs, to assist local agencies and school districts in claiming reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Emergency Procedures, Earthquake Procedures, and Disasters Program for the period of July 1, 2000, through June 30, 2003.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, not funded by another source, and not unreasonable and/or excessive.

We conducted the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority of *Government Code* Section 17558.5. We did not audit the district's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

We limited our review of the district's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

We asked the district's representative to submit a written representation letter regarding the district's accounting procedures, financial records, and mandated cost claiming procedures as recommended by *Government Auditing Standards*. However, the district declined our request.

Conclusion

Our audit disclosed an instance of noncompliance with the requirements outlined above. This instance is described in the accompanying Summary of Program Costs (Schedule 1) and in the Finding and Recommendation section of this report.

For the audit period, the Poway Unified School District claimed \$753,508 for costs of the Emergency Procedures, Earthquake Procedures, and Disasters Program. Our audit disclosed that \$15,144 is allowable and \$738,364 is unallowable.

For fiscal year (FY) 2000-01, the State paid the district \$145,699. Our audit disclosed that \$4,108 is allowable. The district should return \$141,591 to the State.

For FY 2001-02, the State paid the district \$163,317. Our audit disclosed that \$11,036 is allowable. The district should return \$152,281 to the State.

For FY 2002-03, the State made no payment to the district and our audit disclosed that all of the costs claimed are unallowable.

Views of Responsible Officials

We issued a draft audit report on June 24, 2005. Randie A. Murrell, Chief Financial Officer, responded by letter dated July 11, 2005 (Attachment), disagreeing with the audit results. This final audit report includes the district's response.

Restricted Use

This report is solely for the information and use of the Poway Unified School District, the San Diego County Office of Education, the California Department of Education, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original Signed by:

JEFFREY V. BROWNFIELD
Chief, Division of Audits

Schedule 1— Summary of Program Costs July 1, 2000, through June 30, 2003

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment ¹
<u>July 1, 2000, through June 30, 2001</u>			
Salaries and benefits	\$ 210,031	\$ 3,687	\$ (206,344)
Materials and supplies	299	299	—
Total direct costs	210,330	3,986	(206,344)
Indirect costs	6,436	122	(6,314)
Total direct and indirect costs	216,766	4,108	(212,658)
Less offsetting savings/reimbursements	—	—	—
Total program costs	<u>\$ 216,766</u>	4,108	<u>\$ (212,658)</u>
Less amount paid by the State		(145,699)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (141,591)</u>	
<u>July 1, 2001, through June 30, 2002</u>			
Salaries and benefits	\$ 229,122	\$ 10,463	\$ (218,659)
Materials and supplies	84	84	—
Total direct costs	229,206	10,547	(218,659)
Indirect costs	10,635	489	(10,146)
Total direct and indirect costs	239,841	11,036	(228,805)
Less offsetting savings/reimbursements	—	—	—
Total program costs	<u>\$ 239,841</u>	11,036	<u>\$ (228,805)</u>
Less amount paid by the State		(163,317)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (152,281)</u>	
<u>July 1, 2002, through June 30, 2003</u>			
Salaries and benefits	\$ 284,034	\$ —	\$ (284,034)
Materials and supplies	—	—	—
Total direct costs	284,034	—	(284,034)
Indirect costs	12,867	—	(12,867)
Total direct and indirect costs	296,901	—	(296,901)
Less offsetting savings/reimbursements	—	—	—
Total program costs	<u>\$ 296,901</u>	—	<u>\$ (296,901)</u>
Less amount paid by the State		—	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ —</u>	

Schedule 1 (continued)

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u> ¹
<u>Summary: July 1, 2000, through June 30, 2003</u>			
Salaries and benefits	\$ 723,187	\$ 14,150	\$ (709,037)
Materials and supplies	383	383	—
Total direct costs	723,570	14,533	(709,037)
Indirect costs	29,938	611	(29,327)
Total direct and indirect costs	753,508	15,144	(738,364)
Less offsetting savings/reimbursements	—	—	—
Total program costs	<u>\$ 753,508</u>	15,144	<u>\$ (738,364)</u>
Less amount paid by the State		(309,016)	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (293,872)</u>	

¹ See the Finding and Recommendation section.

Finding and Recommendation

**FINDING—
Unallowable salary,
benefit, and related
indirect costs**

The district claimed unallowable salary and benefit costs totaling \$709,037 for the audit period. The related indirect costs total \$29,327. The unallowable costs occurred because costs claimed were not supported with adequate source documentation. The district claimed salary and benefit costs for updating the earthquake emergency procedure system and training staff.

Updating System

The district claimed costs for updating its Standardized Emergency Management System (SEMS). However, SEMS includes all disaster scenarios; it is not limited to earthquakes. The district did not provide any documentation to show SEMS costs specifically attributable to earthquakes; therefore, the district did not document actual mandate-related costs. In addition, the district claimed costs supported by employee declarations. District employees did not complete the declarations contemporaneously and did not identify the date on which the employee performed mandated activities. Furthermore, the district did not provide any supporting documentation for \$19,452 of the costs claimed.

Training Staff

The district claimed 1.5 hours per district employee for fiscal year (FY) 2000-01 and FY 2001-02, and 1.75 hours per district employee for FY 2002-03. The district provided employee declarations signed by school principals, which indicate that all school site employees attended 1.5 or 1.75 hours of training. However, these employee declarations are insufficient documentation to support training hours claimed. The district provided a letter dated September 13, 2004, which was addressed to school principals from the district's consultant. Regarding training hours claimed, the letter states, "These hours are based on an original study done a few years ago. . . . I have attached a certification for each year for you to sign stating that the training for those years did take place. . . ." Therefore, the employee certifications were not completed contemporaneously. Furthermore, the district did not provide any documentation to support the "original study" referenced in the consultant's letter.

The district also provided various emergency drill reports, and disaster committee and school site staff meeting agendas. Emergency drill reports did not identify which staff performed mandated activities or the amount of time spent on mandated activities. In addition, in-classroom teacher time spent during earthquake drills is not reimbursable. Furthermore, disaster committee and school site staff meeting agendas did not identify time spent on mandate-related activities.

The following table summarizes the audit adjustment.

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Salary and benefit costs:				
Updating system				
Not mandate-related	\$ (5,395)	\$ (16,137)	\$ (10,873)	\$ (32,405)
No supporting documentation	(2,189)	(163)	(17,100)	(19,452)
Employee declarations	(4,197)	(7,226)	—	(11,423)
Subtotal	(11,781)	(23,526)	(27,973)	(63,280)
Employee training	(194,563)	(195,133)	(256,061)	(645,757)
Total salary and benefit costs	(206,344)	(218,659)	(284,034)	(709,037)
Related indirect costs	(6,314)	(10,146)	(12,867)	(29,327)
Audit adjustment	<u>\$ (212,658)</u>	<u>\$ (228,805)</u>	<u>\$ (296,901)</u>	<u>\$ (738,364)</u>

Parameters and Guidelines states:

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include . . . declarations. . . . However, corroborating documents cannot be substituted for source documents.

Regarding reimbursable activities, *Parameters and Guidelines* states:

. . . in-classroom teacher time spent on the instruction of students on the earthquake emergency procedure system is not reimbursable.

To claim salary and benefit costs, *Parameters and Guidelines* requires districts to:

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate. Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

To claim training costs, *Parameters and Guidelines* requires districts to:

. . . Report the name and job classification of each employee [attending training]. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro rata portion can be claimed. . . .

Recommendation

We recommend that the district support salary and benefit costs claimed with actual time records and training records that meet the requirements of *Parameters and Guidelines*.

District's Response

For unallowable costs related to updating the system, the district commented on all three issues (not mandate-related, no supporting documentation, and employee declarations). The district also commented on the audit adjustment for unallowable employee training costs and provided overall comments regarding source documentation. For each issue, the district's comments are as follows.

Not mandate-related

... The Controller erroneously believes the scope of the mandate is limited to earthquake preparedness procedures and planning, which is an error of law. The adjustment is without legal basis.

The draft audit report alleges that SEMS activities exceed the scope of the mandate. The parameters and guidelines describe the reimbursable activities to include salary and benefits of employees who prepare and implement the emergency procedure system and supply costs directly related to the establishment of an emergency procedure system. The emergency procedure system is not limited to earthquake procedures as alleged by the Controller.

The Controller, not the District, has the burden of showing how the SEMS activities exceed the parameters and guidelines for all emergency procedures. The Controller did not cite any statutory basis for its SEMS disallowance. . . .

No supporting documentation

... The draft audit report does not indicate what type of costs were disallowed and the type of documentation which would be required to support these costs. . . .

Employee declarations

... The Controller has not indicated what law prevents the use of declarations and requires those declarations to be contemporaneous. . . .

The Parameters and Guidelines extant for the fiscal years of the claims audited do not provide advance notice that "declarations" are unacceptable documentation, or that they must be contemporaneously completed. The fact that the declarations are dated after the activity reported occurred is not a valid objection because the claims are prepared months after the activity reported. . . . The Commission on State Mandates, which has appellate jurisdiction for Controller audits, does not conduct hearings according to technical rules relating to evidence and witnesses and allows the admission of all relevant evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. . . . The Controller cannot establish a standard by audit practice which exceeds that of the Commission and the courts which have jurisdiction over the audit.

Employee training costs

... as far as the Controller is concerned, none on the documentation prepared in the normal course of implementing the State mandate (agendas and drill reports) are sufficient for mandate cost accounting purposes, and further, that documentation specifically prepared for mandate reimbursement reporting, the declarations, are too little and too late. . . .

It appears the District's mandate reimbursement consultant incorrectly included the time of classroom teachers for emergency procedures planning and drills. However, the Controller's draft audit report does not specify the amounts applicable for this disallowance reason.

Source documentation

The entire basis of the Controller's adjustments is the quantity and quality of District documentation. It appears as if the draft audit report is applying some previously unpublished definition to the term "source documents." In fact, the definition applied by the audit report is still undefined and unpublished because no where in the draft audit report does it state what kind of "source documents" would satisfy its unpublished demands. The Controller references parameters and guidelines standards which were not in effect during the fiscal period of the claims as the reason for adjustments even though the District was not on notice of the alleged necessity for contemporaneous and corroborated documentation. The District has made available to the auditors source documents prepared in the normal course of implementing the mandate and which comply with the relevant parameters and guidelines standards. The Controller is holding the District to an unpublished definition for "source documents."

SCO's Comment

Our finding and recommendation remain unchanged. The following are our comments on the issues presented in the district's response.

Not mandate-related

The district incorrectly summarized *Parameters and Guidelines* (amended May 29, 2003), which specifies that the reimbursable activities include an earthquake emergency procedure system. *Education Code* Sections 35295 through 35297 are all contained within Article 10.5, entitled "Earthquake Emergency Procedures." No other disasters or emergencies are specifically mentioned in any of these *Education Code* sections. *Education Code* Section 35295(c) states that, "it is therefore the intent of the legislature in enacting this article to authorize the establishment of earthquake emergency procedure systems in [California schools]." The Legislative statement of intent limits the mandated program scope to earthquake emergency procedures. The statutes are void of any language that would support a reimbursement claim for any other types of disaster or emergency preparation.

The district claimed salary and benefit costs related to updating its standardized emergency management system (SEMS). The district updated its SEMS emergency preparedness plan in accordance with district Board policy, Section 6.85, which states, "The District

Superintendent shall develop an emergency preparedness plan which complies with the state education and government codes and the requirements of [SEMS].”

District administrative procedure Section 6.85.1 and *California Code of Regulations*, Title 19, Section 2402, define an emergency as follows:

“Emergency” means a condition of disaster or of extreme peril to the safety of persons and property caused by such conditions as air pollution, fire, flood, hazardous material incident, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestations or disease, [earthquake], or other conditions, other than conditions resulting from a labor controversy.

The district did not provide documentation that identifies SEMS costs applicable to earthquakes.

No supporting documentation

On April 1, 2005, we provided detailed supporting working papers to the district’s Director of Accounting. We provided the same working papers to all exit conference attendees present on May 3, 2005. The supporting working papers specifically identify costs claimed for which the district provided no supporting documentation. The district is required to provide supporting documentation that meets the requirements of *Parameters and Guidelines*.

Employee declarations

The audit finding quotes *Parameters and Guidelines* (amended May 29, 2003), which is applicable to claims filed in FY 2000-01 through FY 2002-03. It states that source documents must be contemporaneous, and it specifies that declarations may not be substituted for source documents. The date on which the district prepares its mandated cost claim is irrelevant to the date(s) on which employees prepare documentation that supports costs claimed.

Employee training costs

To support training costs claimed, the district provided employee declarations, which state that all school-site employees attended training. The district prepared the declarations in response to our audit. The district prepared the declarations based on an undocumented prior year’s study. The declarations do not represent actual costs.

To support the declarations, the district provided various emergency drill reports. However, the reports did not identify which employees performed mandated activities or the amount of time employees spent on mandated activities. Therefore, we are unable to identify the specific costs claimed related to time spent by teachers during earthquake drills. It is the district’s responsibility to reconcile supporting documentation with costs claimed.

Source documentation

Parameters and Guidelines (amended May 29, 2003, and applicable to claims filed for FY 2000-01 through FY 2002-03) states:

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include... declarations... However, corroborating documents cannot be substituted for source documents.

For training costs claimed, documentation that the district provided was not “source documents prepared in the normal course of implementing the mandate.” The district’s consultant requested that district employees prepare employee declarations only after we notified the district that we would audit the district’s mandated cost claims.

Statute of limitations

The district’s response included comments regarding the SCO’s authority to audit costs claimed for FY 2000-01. The district’s response and SCO’s comment are as follows.

District’s Response

The District’s Fiscal Year 2000-01 claim was filed on January 8, 2002. Pursuant to Government Code Section 17558.5, this claim is subject to audit until December 31, 2004. The draft audit report is dated June 24, 2005. Therefore, the proposed audit adjustments for FY 2000-01 are barred by the statute of limitations.

SCO’s Comment

Our audit scope remains unchanged. *Government Code* Section 17558.5(a), effective July 1, 1996, states that a district’s reimbursement claim is subject to audit no later than two years after the end of the calendar year in which the claim is filed or last amended. The district’s Director of Finance signed and dated the district’s FY 2000-01 claim on January 15, 2002. We conducted an audit entrance conference with the district on September 20, 2004, which is within the statute of limitations. For the audit period, there was no statutory language defining when the SCO must issue an audit report.

**Public records
request**

The district's response included a Public Records Act request. The district's response and SCO's comment are as follows.

District's Response

The District requests that the Controller provide the District any and all written instructions, memorandums, or other writings in effect and applicable during the claiming period which defines "source documents" or declares that "declarations are unacceptable documentation."

SCO's Comment

In a separate letter dated July 22, 2005, we provided the district with copies of *Parameters and Guidelines* amended May 29, 2003; *Parameters and Guidelines* amended February 28, 1991; and SCO claiming instructions dated October 1996 and August 11, 2003.

**Attachment—
District's Response to
Draft Audit Report**



POWAY UNIFIED SCHOOL DISTRICT

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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 11, 2005

Mr. Jim L. Spano, Chief
Compliance Audits Bureau
Division of Audits
State Controller's Office
P.O. Box 942850
Sacramento, CA 94250-5874

Re: Poway Unified School District 1659/84 Emergency Procedures, Earthquake
Procedures, and Disasters Program
Audit of Annual Mandate Reimbursement Claims
FY 2000-01, 2001-02, and 2002-03

Dear Mr. Spano:

This letter is the response of the Poway Unified School District to the letter to Donald A. Phillips, Ed.D., Superintendent, from Vincent P. Brown dated June 24, 2005 (received June 29, 2005) which enclosed a draft copy of your audit report of the District's Emergency Procedures, Earthquake Procedures, and Disasters Program, Chapter 1659, Statutes of 1984, for the period of July 1, 2000 through June 30, 2003.

Controller Audit Finding: Unallowable, salary, benefit, and related indirect costs

The Controller's draft audit report reports the results of the audit in one omnibus adjustment although several types of component adjustments are made for various reasons. The audit eliminates 98% of the claimed costs. The adjustment amounts were disallowed for the reasons summarized as either "non mandate-related," "no supporting documentation," "employee declarations," or "employee training." However, the essential stated reason for all adjustments is that "the unallowable costs occurred because costs claimed were not supported with adequate source documentation."

SERVING THE CITIES OF POWAY AND SAN DIEGO, INCLUDING THE COMMUNITIES OF:

Black Mountain Ranch, Carmel Mountain Ranch, Poway, Rancho Bernardo, Rancho Peñasquitos, Sabre Springs, Santa Fe Valley, Torrey Highlands, 4S Ranch

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July 11, 2005
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Apparently, none of the adjustments were made because the costs claimed were excessive or unreasonable.

SEMS Costs

This disallowance appears related to claimed costs related to work on the Standardized Emergency Management System (SEMS). This adjustment consists of three parts:

Not mandate-related: \$32,405
No supporting documentation: \$19,452
Employee declarations: \$11,423
Total direct costs disallowed: \$63,280

Not Mandate-Related: The disallowance was made for the stated reason that "the district did not provide any documentation to show SEMS costs specifically attributable to earthquakes; therefore, the district did not document actual mandated related costs." The Controller erroneously believes the scope of the mandate is limited to earthquake preparedness procedures and planning, which is an error of law. The adjustment is without legal basis.

No Supporting Documentation: The disallowance was made for the stated reason that "furthermore, the district did not provide any supporting documentation for \$19,452 of the costs claimed." The draft audit report does not indicate what type of costs were disallowed and the type of documentation which would be required to support these costs. The audit report merely compounds the alleged error the Controller asserts was made by the District.

Employee Declarations: The disallowance was made for the stated reason that "district employees did not complete the declarations contemporaneously and did not identify the date the employee performed mandated activities." The Controller has not indicated what law prevents the use of declarations and requires those declarations to be contemporaneous.

Training Costs

A three-year total of \$645,757 was disallowed for emergency drills, disaster committee meetings, and school site meetings. The stated reasons for the adjustments were that the costs were based on post-facto declarations, an unsupported "study," and agendas and reports which were insufficiently specific as to staff time or type of activity. Which is to say, as far as the Controller is concerned, none of the documentation prepared in the normal course of implementing the State mandate (agendas and drill reports) are sufficient for mandate cost accounting purposes, and further, that documentation

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July 11, 2005
Page 3

specifically prepared for mandate reimbursement reporting, the declarations, are too little and too late. All of the reasons stated by the Controller are without legal basis.

Classroom Teacher Costs

It appears that the District's mandate reimbursement consultant incorrectly included the time of classroom teachers for emergency procedure planning and drills. However, the Controller's draft audit report does not specify the amounts applicable for this disallowance reason.

STANDARDIZED EMERGENCY MANAGEMENT SYSTEM

The draft audit report alleges that SEMS activities exceed the scope of the mandate. The parameters and guidelines describe the reimbursable activities to include salary and benefits of employees who prepare and implement the emergency procedure system and supply costs directly related to the establishment of an emergency procedure system. The emergency procedure system is not limited to earthquake procedures as alleged by the Controller.

The Controller, not the District, has the burden of showing how the SEMS activities exceed the parameters and guidelines for all emergency procedures. The Controller did not cite any statutory basis for its SEMS disallowance. Chapter 1659, Statutes of 1984, and Education Code 35295 through 35297 do not provide any authority for the Controller to eliminate these costs. Nor do Government Code Section 17561 or the Commission regulations (Chapter 2.5, Title 2, California Code of Regulations) provide any authority for the Controller to eliminate the claimed costs. Absent some statutory authorization, another source of authority must be stated by the Controller.

EMPLOYEE DECLARATIONS

The Parameters and Guidelines extant for the fiscal years of the claims audited do not provide advance notice that "declarations" are unacceptable documentation, or that they must be contemporaneously completed. The fact that the declarations are dated after the activity reported occurred is not a valid objection because the claims are prepared months after the activity reported. In fact, in every court and tribunal in this nation, witnesses competently testify as to facts that occurred weeks, months and years previously. The Commission on State Mandates, which has appellate jurisdiction for Controller audits, does not conduct hearings according to technical rules relating to evidence and witnesses and allows the admission of all relevant evidence on which responsible persons are accustomed to rely in the conduct of serious affairs (Title 2, California Code of Regulations, Section 1187.5). The Controller cannot establish a standard by audit

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July 11, 2005
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practice which exceeds that of the Commission and the courts which have jurisdiction over the audit.

SOURCE DOCUMENTATION

The entire basis of the Controller's adjustments is the quantity and quality of District documentation. It appears as if the draft audit report is applying some previously unpublished definition to the term "source documents." In fact, the definition applied by the audit report is still undefined and unpublished because nowhere in the draft audit report does it state what kind of "source documents" would satisfy its unpublished demands. The Controller references parameters and guidelines standards which were not in effect during the fiscal period of the claims as the reason for the adjustments even though the District was not on notice of the alleged necessity for contemporaneous and corroborated documentation. The District has made available to the auditors source documents prepared in the normal course of implementing the mandate and which comply with the relevant parameters and guidelines standards. The Controller is holding the District to an unpublished definition for "source documents."

STATUTE OF LIMITATIONS FOR AUDIT

The District's Fiscal Year 2000-01 claim was filed on January 8, 2002. Pursuant to Government Code Section 17558.5, this claim is subject to audit until December 31, 2004. The draft audit report is dated June 24, 2005. Therefore, the proposed audit adjustments for FY 2000-01 are barred by the statute of limitations.

PUBLIC RECORDS REQUEST

The District requests that the Controller provide the District any and all written instructions, memorandums, or other writings in effect and applicable during the claiming period which defines "source documents" or declares that "declarations are unacceptable documentation."

Government Code section 6253, subdivision (c), requires the state agency which is the subject of the request, within 10 days from receipt of a request for a copy of records, to determine whether the request, in whole or in part, seeks copies of disclosable public records in your possession and promptly notify the requesting party of that determination and the reasons therefor. Also, as required, when so notifying the District, please state the estimated date and time when the records will be made available.

BURDEN OF PROOF

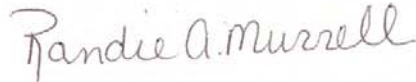
The District filed its annual reimbursement claims within the time limits prescribed by the Government Code. The amounts claimed by the District for reimbursement of the

Mr. Jim L. Spano
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costs of implementing the program imposed by Chapter 1659, Statutes of 1984, and Education Code Section 35295 through 35297 represent the actual costs incurred by the District to carry out this program. These costs were properly claimed, except for the classroom teacher time, pursuant to the Commission's parameters and guidelines and the Controller claiming instructions extant for the fiscal years of the audit. Reimbursement of these costs is required under Article XIII B, Section 6 of the California Constitution. Because the Controller has enforced and is seeking to enforce these adjustments without benefit of statute or regulation the burden of proof is now upon the Controller to establish a legal basis for its actions.

For the reasons stated herein, the Poway Unified School District requests that the draft audit report be corrected as to the facts and the law prior to its final issuance.

Sincerely,



Randie A. Murrell
Chief Financial Officer

cc: Vincent P. Brown, Chief Operating Officer, State Controller's Office
John P. Collins, Deputy Superintendent, Poway Unified School District
Malliga Tholandi, Director of Accounting, Poway Unified School District

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